IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1304 OF 2005

Office Note, Office Memoranda appearance, orders and	Court's or Judge's Orders of Registrar's or	Coram Corut's directions Orders:

Mr. S.V. Pitre, for the Petitioner
Mr. V.G. Mujumdar, for the Respondents.

CORAM: F.I. REBELLO &
MRS. R.S.DALVI, JJ.
DATE : 9TH DECEMBER, 2005

P.C.

. The limited issue raised in this petition by the petitioner is that he should be given the same pay scale as was being paid to the person who has retired and against whose vacancy he has been appointed. The post is of Nursing Assistant.

2. The petitioner has been unable to place any material on record to show that the scale of pay of the post was the scale which was given to Subedar Major N.R. Kamble. The respondents have filed reply and in that reply it is set out that the pay scale of Subedar Major N.R.Kamble was fixed considering his previous rank in the army as also the long years of service that he had put in and which was something personal to Subedar Maj.Kamble and was not the scale of the post. It is also pointed out that the petitioner was offered the post with the

scale. The petitioner was aware of the same and accepted the same. That by itself could have been no ground if the petitioner had been able to establish that the scale of pay of the post was the scale which was given to Subedar Maj. N.R. Kamble. However, in the absence of any material it would not be possible for this Court to consider the relief as prayed for by the petitioner. In the light of that it will not be possible for us to exercise our extra ordinary jurisdiction and grant any relief to the petitioner on the facts as they now stand.

2. One of the issues, though not in issue directly, but which has drawn our attention is the scale of pay given to the employees working with the respondent Nos. 1 and 2. The establishment has been set out to help and assist the disabled soldiers so that they can be trained for some occupation. It may be true that it is not a Government organisation. The Chairman of the Board of Directors as can be seen from the Appendix to the Rules, is the Commander Pune Sub Area, Ex.Officio and there are 8 other ex-officio Directors all serving officers in the Army and there are 3 other elected Directors. In other words though the establishment is not under the Army its entire object and purpose is to help and assist the disabled soldiers.

In these circumstances we fail to understand how those who are working for the establishment should not be considered for pay scale which the Government has made applicable to Government and other employees. The record will indicate that the Agreement entered into with the employees in 1997 under Item No.10 provided as under:-

> "As on date of this Agreement the Govt. has not accepted the Recommendations of V Pay Commission. However, its principles and rationale will be studied in due course towards reviewing the pay structure of QUTI employees."

It appears that though over 8 years have passed that review has not yet been done. All that we can say is that considering the object for which the establishment is running the Board of Directors would act on Condition No.10 as set out in the agreement entered with the workers.

. With the above observations, petition stands disposed of.

(**F.I. REBELLO, J.**)

(**MRS.R.S. DALVI,J.**)